

Notice of Allowability

Application No.

10/069,359

Examiner

MINH-CHAU N. NGUYEN

Applicant(s)

HOVELL ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment, filed 07/10/06.
2. ☒ The allowed claim(s) is/are 1-18 and 21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JASON CARDONE
SUPERVISORY PATENT EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with John P. Wagner Jr. (Reg. No.: 35,398) on 02/23/06. The application has been amended as follows:

Please amend:
3. Claim 10. (Currently Amended) In a communication network having a plurality of computational resources for supporting a plurality of application environments, a method for enabling resource sharing, comprising:
 - a) receiving a first response-time metric from a first component in a plurality of components that form a first application environment in said plurality of application environments;
 - b) comparing said first response-time metric to a first service level objective associated with said first component, wherein said first service level objective is measured over an interval without influence from the behavior of other components; and

c) [optimizing] determining and providing the number of computational resources in said plurality of computational resources that are assigned to said first component in order to satisfy said first service level objective.

4. The following is an examiner's statement of reasons for allowance: None of the prior art references teach (alone or in combination) all the limitations together, within the independent claims 1,10,16. For example, the independent claims contain limitations, determining on an individual basis whether a plurality of service level objectives are satisfied, each of said plurality of service level objectives associated with one of said plurality of components, wherein each of said plurality of service level objectives is measured over a corresponding interval locally at a corresponding component without influence from the behavior of other components. Applicants' arguments [filed 01/18/06], pg. 14-15] are considered persuasive to the limitations of this claim over the prior art of record. Examiner agrees that the limitations of the independent claims are allowable subject matter over the prior art, in light of the specification, with the satisfaction of quality of service objectives that each is measured over a corresponding interval for a corresponding component without influence from other components [Specification, paragraph 40-43,50,58]. Most prior art teaches application environments were optimized to contain the maximum number of computational resources according to a single and static condition, e.g., a peak load condition. Under peak load conditions, each of the components of the application environment would be configured accordingly to contain the correct ratio of computational resources as compared to the other components

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[Specification, paragraph 4]. Therefore, the combination of the limitations, within its environment, is allowable subject matter, in light of the specification and in view of the Applicants' persuasive arguments. The independent claims 1,10,16 (and their dependent claims) are allowable, since the claim language discloses this combination of limitations in accordance with the specification, over the prior art of record.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
6. Claims 1-18,21 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-CHAU N. NGUYEN whose telephone number is (571)272-4242. The examiner can normally be reached on Monday-Friday from 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JASON D. CARDONE can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Minh-Chau Nguyen

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SUPERVISORY PATENT EXAMINER